

James Alan Bush  
1745 De Marietta Avenue #3  
San Jose, CA 95126  
(408) 982-3272

Plaintiff in pro per

**FILED**

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RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

James Alan Bush,	)	Case No.: C 08-01354 (RS) JF
	)	
Petitioner,	)	EXHIBIT G
	)	
v.	)	TRANSCRIPT OF PHONE CONVERSATION
	)	BETWEEN DEFENDANT DANIEL NAPOLITAN
	)	AND DEFENDANT DANIEL CORTEZ
Crime Scene Investigator James	)	
Anton, Officer Benjamin Holt,	)	
Lieutenant Carl Rushmeyer,	)	Date: May 21 <sup>st</sup> , 2006
Lieutenant Vierra, Officer Jon	)	Time: @ 2:00 PM
Marines, Officer Christopher	)	
Fontaine, Officer Michael (aka	)	
"Mick") Rose, Officer Devon	)	Judge Jeremy Fogel
Klein, and Sunnvyale Department	)	
of Public Safety,	)	
	)	
- and -	)	
	)	
Long (aka "Kevin") Cao, Daniel	)	
Napolitan, Daniel Cortez,	)	
Laurene Weber, Robert Bradford	)	
(aka "Malnburg, Jr."), Jonathan	)	
Harrington, Josh Williams,	)	
	)	
Respondents.	)	
	)	

**SUMMARY**

Relevant excerpts of a transcript of a phone conversation between Defendant, Daniel Napolitan, and Defendant, Daniel Cortez, on May 21<sup>st</sup>, 2006, at or about 2:00 PM.

**TRANSCRIPT**

NAPOLITAN: [coughs] Yeah, it's D-Nap.

CORTEZ: What's up, D?

NAPOLITAN: Hey, uh, you know what? If you got some time later...

CORTEZ: Huh?

NAPOLITAN: If you can make some time later, it'd be cool if I could get...get up, uh...get together with you and let's talk about something real quick.

CORTEZ: Oh, yeah?

NAPOLITAN: Yeah. Something to do with, like, you know, over here, there, everywhere.

CORTEZ: Like...[stutters]...give me a general idea.

NAPOLITAN: Um, just, like, just something that they...an officer came over to, uh, take the, uh...what do you call it? The, uh, report on the last of the, um, goods being stolen last Friday or whatever.

CORTEZ: Uh-huh.

NAPOLITAN: But, then, it didn't even happen. He said he didn't want to come here...this and that, and, and, then, he said something about me, like, a remark, that just like Ja... I'm not, like, in danger or nothing, but, it's like, weird.

1                   Weird shit, man. Small town.

2   CORTEZ:       What the fuck...?

3   NAPOLITAN:   He's, he's like this, "Danny's out already?!" Like, you,

4                   like...fuck! Like, dude! Who am I?!

5   CORTEZ:       Who...who said that?

6   NAPOLITAN:   The cop!

7   CORTEZ:       The cop said, "Who's out already?"

8   NAPOLITAN:   He asked about me! I could...that's why I want to sit down

9                   and tell you all about it 'cuz it's kinda fuckin' wack.

10                  Like, like...they don't even give a shit about this place.

11   CORTEZ:       Okay, okay. Who's telling you all of this?

12   NAPOLITAN:   This, uh, this happen...okay, check it out: I listen to

13                  their phone conversations, I listen to everything. I seen

14                  it go down--about James. James is trying to give a report,

15                  as far as, like, you know, his iPod, his, uh, car keys...

16   CORTEZ:       [stutters] What does that have to do with the iPod, though?

17   NAPOLITAN:   They...well, they came to fill out a report...to take a

18                  report.

19   CORTEZ:       He called them to come fill out a report.

20   NAPOLITAN:   But, they weren't...yeah, yeah, yeah...

21   CORTEZ:       [inaudible]

22   NAPOLITAN:   Yeah, but, the thing, like...one of the things is that he

23                  said, was, like, "So, Danny's out already?" Because he...the

24                  cop wouldn't come here...

25   CORTEZ:       That doesn't have anything to do with the iPod, bro.

26   NAPOLITAN:   No. [stutters] The cop was supposed to come here to do a,

1 take a report.

2 CORTEZ: Oh, yeah...for the report...stolen...

3 NAPOLITAN: Yeah, just for the things missing.

4 CORTEZ: Okay..James comes out...[inaudible]...to the house I told

5 you, right?

6 NAPOLITAN: So, here's how it : the cop wouldn't come to the house.

7 He stopped, like, 10 houses down. And, then, the cop...

8 Sunnyvale Police calls James' phone. They said, "Hey, can

9 you, uh, go out and, uh, talk to my officer out front."

10 Okay?

11 CORTEZ: No fucking way!

12 NAPOLITAN: The cop wasn't here out front. He was, like, 10 houses down.

13 He wouldn't...

14 CORTEZ: I heard you...

15 NAPOLITAN: Weird shit. He walks down there, I'm looking down there...

16 they're talking forever, you know?

17 CORTEZ: With James?

18 NAPOLITAN: James and the cop, and, it was like, the cop...first off,

19 came out here, because he didn't want to take a description

20 of any...anyone he thought might have been a suspect over

21 the phone; but, once he's here, he, like, like, notices

22 where he's going or something...

23 CORTEZ: Yeah. For an investigation.

24 NAPOLITAN: He don't give a fuck about it. He's like, "I ain't takin' no

25 report." He didn't even take a report. He was, like, like,

26 laughing in his face, in a way. And, he said...and something

1 about Danny, and, then, he says, "Danny's out already?"

2 Like...

3 CORTEZ: Uh-huh...

4 NAPOLITAN: ...dude! Like the fucker knew me and...

5 CORTEZ: I understand totally, bro.

6 NAPOLITAN: So, do you know anything about it? That's all I'm...

7 CORTEZ: So, what do you want to talk to me about?

8 NAPOLITAN: Well, just like, actually, I's, uh...you know...

9 CORTEZ: That's some funny [inaudible] shit, for real.

10 NAPOLITAN: It is...

11 ...

12 CORTEZ: I'm not going over there, bro.

13 NAPOLITAN: It's cool. No, it's like super-cool here; but...but, I want  
14 to get out of here.

15  
16 **VERIFICATION**

17 Plaintiff asserts that, to his full knowledge and to the best  
18 of his ability, the foregoing transcript is a true and accurate  
19 representation of the corresponding audio recording filed as Exhibit "L".

20  
21 Signed: \_\_\_\_\_

Dated: 5-16-08